

Judge Theiler

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SINISA GAVRIC,

Defendant.

) Case No.: CR10-0124 MJP

) MOTION FOR RECONSIDERATION
) OF DETENTION ORDER

I. MOTION

COMES NOW, SINISA GAVRIC, by and through his attorney, Jennifer Horwitz,
and moves this Court for reconsideration of the detention order in this case, based on new,
additional information presented in this motion attached declaration of counsel. Mr. Gavric
requests that this Court grant his release, upon the following conditions, in addition to any
standard and special conditions proposed by pretrial services:

- Mr. Gavric shall surrender his Bosnian passport to the clerk of the Court
immediately upon the Court's order of release;

1 - Mr. Gavric shall keep pretrial services apprised of any deportation proceedings
2 initiated by Canada and shall provide pretrial services with all correspondence received by
3 him in connection with deportation proceedings.
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5 II. BASIS FOR MOTION

6 Section 3142(e) of the Bail Reform Act provides that there is a rebuttable
7 presumption of detention in this case because the charges in this case involve drug offenses
8 that carry a maximum penalty of ten years or more. This presumption can be rebutted if the
9 defense is able to establish that there is a condition or combination of conditions that will
10 reasonably assure the appearance of the defendant and the safety of the community. This
11 court already found that the presumption in favor of detention was rebutted in the case of
12 several of Mr. Gavric's co-defendants and ordered that they be released to return to Canada.
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14 While other defendants charged in this case are Canadian citizens, Mr. Gavric is a
15 citizen of Bosnia with legal permanent resident status in Canada. In considering the issue of
16 detention, this Court saw this as an important distinction. While other defendants who are
17 Canadian citizens would clearly return to Canada upon their release, the Court expressed
18 concerns that Mr. Gavric might be deported back to Bosnia by Canadian authorities before
19 the conclusion of this criminal case. This motion for reconsideration proffers new
20 information on this issue (See, Declaration of Jennifer Horwitz, attached). In short, while
21 deportation proceedings would likely be initiated against Mr. Gavric upon his return to
22 Canada (should this Court order his release), those proceedings would be protracted and his
23 deportation before the conclusion of this case would be unlikely. In addition, deportation
24 would not be a foregone conclusion and proceedings would move slowly and could be
25 monitored by this court. Based on the description offered by immigration expert Martin
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1 Tremblay at the Canadian Consulate, there would be ample time for this Court to take Mr.
2 Gavric back into custody in the unlikely event that deportation proceedings proceeded more
3 quickly than expected.
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5 With the concern alleviated that Mr. Gavric might suddenly be deported from
6 Canada during the pendency of this case, this Court is left with examining remaining factors
7 regarding Mr. Gavric to decide whether there is a combination of conditions that will
8 reasonably assure Mr. Gavric's appearance. Mr. Gavric is prepared, as he was at the original
9 detention hearing, to surrender his Bosnian passport to the Clerk of the Court before his
10 release. While Mr. Gavric still has a few relatives in Bosnia, most of his family is in
11 Canada. His father, siblings and mother are in Canada. Although his mother is in Canada
12 visiting a new baby born in the family, her intention is to relocate to Canada with the rest of
13 her family. While Mr. Gavric is involved with a woman who lives in Serbia, this is a new
14 relationship of only a few months. With respect to his few ties to Bosnia, it is hard to
15 imagine in this post-911 world how Mr. Gavric could flee to Bosnia once he has
16 relinquished his passport.
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19 Mr. Gavric has a job that has been verified by his friend Dalibor Krnetich. He has an
20 apartment and animals that he loves and cares for. He has absolutely no criminal history in
21 the United States, Canada or elsewhere. He has lived in Canada for several years and is in
22 the process of pursuing citizenship. Although deportation from Canada is a possibility as a
23 result of this case, it is not a certainty. Mr. Gavric has every reason to remain in Canada,
24 engage immigration counsel and work to remain in the place he now considers his home.
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27 The crime Mr. Gavric has been accused of is not a crime of violence. Despite the
28 fact that Mr. Gavric possessed a tool that he could use to cut through brush near where he

1 was arrested, there is no indication that tool was wielded or used in any way as a weapon.
2 To the contrary, Mr. Gavric was polite, forthcoming and cooperative with authorities upon
3 his arrest.
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5 III. CONCLUSION

6 For the foregoing reasons and based on the new information contained in the
7 attached declaration, the defense respectfully requests that this Court reconsider the order
8 detaining Mr. Gavric and find that there is a combination of conditions, including those
9 proposed by the defense, that will reasonably assure Mr. Gavric's appearance in this case.
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12 Presented By:

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21 Certificate of Service

22 I certify, under penalty of perjury under the laws of the State of Washington, that today I
23 electronically filed this pleading and all attachments with the Clerk of the Court using the CM/ECF
24 system, which will send electronic notification of the filing to the attorneys of record for each of the
25 parties. I further certify that I send a copy of this pleading to the defendant by United States Mail.
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27 Signed by Jennifer Horwitz on May 5, 2010 in Seattle, Washington.
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